

## HOUSE BILL No. 1438

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 25-26-13; IC 35-48-7.

**Synopsis:** Pharmacy matters. Establishes the pharmacy law enforcement account to provide funding for the enforcement of pharmacy laws, the rehabilitation of impaired pharmacists, and the education of pharmacists and the public regarding pharmacy laws. Changes pharmacist intern and extern registration renewal time frames. Specifies allocation of pharmacist licensure fees. Removes the responsibility of the state police department for the controlled substance prescription monitoring program and assigns those responsibilities to the controlled substances advisory committee and the health professions bureau.

**Effective:** July 1, 2003.

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**Welch, Brown C, Hasler**

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January 14, 2003, read first time and referred to Committee on Public Health.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

## HOUSE BILL No. 1438

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations and to make an appropriation.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 25-26-13-4.5 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4.5. (a) As used in this  
3 section, "impaired pharmacist" means a licensed pharmacist who has  
4 been affected by the use or abuse of alcohol or other drugs.

5 (b) The board shall assist in the rehabilitation of an impaired or a  
6 licensed pharmacist. The board may:

7 (1) enter into agreements, provide grants, and make other  
8 arrangements with statewide nonprofit professional associations,  
9 ~~or~~ foundations, **or entities specifically devoted to the**  
10 **rehabilitation of impaired health care professionals** to identify  
11 and assist impaired pharmacists or licensed pharmacists; and

12 (2) accept and designate grants, public and private financial  
13 assistance, and licensure fees to fund programs under subdivision  
14 (1).

15 (c) Except as provided in subsection (e), all:

16 (1) information furnished to a nonprofit professional organization  
17 or foundation, including interviews, reports, statements, and



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1 memoranda; and  
 2 (2) findings, conclusions, or recommendations that result from a  
 3 proceeding of a professional organization or foundation;  
 4 are privileged and confidential.

5 (d) The records of a proceeding under subsection (c) may be used  
 6 only in the exercise of the proper functions of the board and may not  
 7 become public records or be subject to a subpoena or discovery  
 8 proceeding.

9 (e) Information received by the board from the board designated  
 10 rehabilitation program for noncompliance by the licensed pharmacist  
 11 may be used by the board in any disciplinary or criminal proceedings  
 12 instituted against the impaired licensed pharmacist.

13 (f) The board designated rehabilitation program shall:

14 (1) immediately report to the board the name and results of any  
 15 contact or investigation concerning an impaired licensed  
 16 pharmacist that the program believes constitutes an imminent  
 17 danger to either the public or the impaired licensed pharmacist;  
 18 and

19 (2) in a timely fashion report to the board an impaired licensed  
 20 pharmacist:

21 (A) who refuses to cooperate with the program;

22 (B) who refuses to submit to treatment; or

23 (C) whose impairment is not substantially alleviated through  
 24 treatment.

25 SECTION 2. IC 25-26-13-6.5 IS ADDED TO THE INDIANA  
 26 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 27 [EFFECTIVE JULY 1, 2003]: **Sec. 6.5. (a) The pharmacy law**  
 28 **enforcement account is established to provide money for the**  
 29 **following:**

30 **(1) Enforcement of pharmacy laws and rules under**  
 31 **IC 16-42-20 and this article.**

32 **(2) Rehabilitation of impaired pharmacists.**

33 **(3) Education of pharmacists and the public regarding**  
 34 **pharmacy laws and rules.**

35 **(b) The account shall be administered by the health professions**  
 36 **bureau.**

37 **(c) Notwithstanding section 23 of this chapter, a fine collected by**  
 38 **the board shall be deposited in the account, and the money is**  
 39 **annually appropriated to the health professions bureau.**

40 **(d) The treasurer of state shall invest the money in the account**  
 41 **not currently needed to meet the obligations of the account in the**  
 42 **same manner as other public money may be invested.**



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1       **(e) Money in the account at the end of a state fiscal year does not**  
 2       **revert to the state general fund.**

3       SECTION 3. IC 25-26-13-10, AS AMENDED BY P.L.187-1999,  
 4       SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 5       JULY 1, 2003]: Sec. 10. (a) An applicant for registration as a  
 6       pharmacist intern or pharmacist extern must furnish proof satisfactory  
 7       to the board that the applicant is a high school graduate or its  
 8       equivalent, has obtained a general educational development (GED)  
 9       diploma, or is enrolled in a pre-pharmacy or pharmacy curriculum at  
 10      an accredited school of pharmacy. The board may require the applicant  
 11      to successfully complete an examination prior to registering the  
 12      applicant as a pharmacist intern or pharmacist extern.

13      (b) A registration issued under subsection (a) of this section is valid  
 14      for ~~six (6) years from the date of issuance~~ and may be renewed by the  
 15      board for an additional five (5) years for good cause shown: **until an**  
 16      **expiration date established by the health professions bureau under**  
 17      **IC 25-1-5-4. The expiration date must occur during an**  
 18      **even-numbered year.**

19      (c) An application for registration or renewal must be accompanied  
 20      by the appropriate fee.

21      SECTION 4. IC 25-26-13-23 IS AMENDED TO READ AS  
 22      FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 23. (a) The board shall  
 23      establish appropriate fees to carry out this chapter.

24      (b) All fees are nonrefundable. A receipt shall be issued for all fees  
 25      and fines submitted.

26      (c) All fees collected under this section ~~and fines collected under~~  
 27      ~~IC 25-1-9~~ shall be transferred to the treasurer of state and deposited in  
 28      the general fund of the state.

29      ~~(d) The board may adopt rules that provide that at the time of~~  
 30      ~~license renewal, each licensed pharmacist pay an additional fee not to~~  
 31      ~~exceed ten dollars (\$10). The amounts collected under this subsection~~  
 32      ~~shall be deposited in the impaired pharmacists account established~~  
 33      ~~under section 30 of this chapter. (d) A fine collected by the board~~  
 34      ~~shall be transferred to the treasurer of state and deposited in the~~  
 35      ~~account established by section 6.5 of this chapter.~~

36      **(e) At the time of license renewal, each licensed pharmacist shall**  
 37      **pay a renewal fee, a part of which shall be used for the**  
 38      **rehabilitation of impaired pharmacists. Notwithstanding**  
 39      **subsection (c), the lesser of the following amounts from fees**  
 40      **collected under this subsection shall be deposited in the impaired**  
 41      **pharmacists account of the state general fund established by**  
 42      **section 30 of this chapter:**

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**(1) Sixteen percent (16%) of the license renewal fee for each license renewed under this section.**

**(2) The cost per license needed to operate the impaired pharmacists program, as determined by the health professions bureau.**

SECTION 5. IC 35-48-7-2, AS AMENDED BY P.L.107-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. As used in this chapter, "central repository" refers to the central repository designated by the ~~state police department~~ **advisory committee** under section 10 of this chapter.

SECTION 6. IC 35-48-7-8, AS AMENDED BY P.L.107-1999, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. The ~~state police department~~, ~~with the approval of the~~ **advisory committee** shall provide for a controlled substance prescription monitoring program that includes the following components:

(1) Each time a controlled substance designated by the advisory committee under IC 35-48-2-5 through IC 35-48-2-10 is dispensed, the dispenser shall transmit to the central repository the following information:

(A) The recipient's name.

(B) The recipient's or the recipient representative's identification number.

(C) The recipient's date of birth.

(D) The national drug code number of the controlled substance dispensed.

(E) The date the controlled substance is dispensed.

(F) The quantity of the controlled substance dispensed.

(G) The number of days of supply dispensed.

(H) The dispenser's United States Drug Enforcement Agency registration number.

(I) The prescriber's United States Drug Enforcement Agency registration number.

(J) An indication as to whether the prescription was transmitted to the pharmacist orally or in writing.

(2) The information required to be transmitted under this section must be transmitted not more than fifteen (15) days after the date on which a controlled substance is dispensed.

(3) A dispenser shall transmit the information required under this section by:

(A) an electronic device compatible with the receiving device of the central repository;

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- (B) a computer diskette;
- (C) a magnetic tape; or
- (D) a pharmacy universal claim form;

that meets specifications prescribed by the advisory committee.

(4) The advisory committee may require that prescriptions for controlled substances be written on a one (1) part form that cannot be duplicated. However, the advisory committee may not apply such a requirement to prescriptions filled at a pharmacy with a Type II permit (as described in IC 25-26-13-17) and operated by a hospital licensed under IC 16-21, or prescriptions ordered for and dispensed to bona fide enrolled patients in facilities licensed under IC 16-28. The committee may not require multiple copy prescription forms and serially numbered prescription forms for any prescriptions written. The committee may not require different prescription forms for any individual drug or group of drugs. Prescription forms required under this subdivision must be jointly approved by the committee and by the Indiana board of pharmacy established by IC 25-26-13-3.

(5) The costs of the program.

SECTION 7. IC 35-48-7-9, AS AMENDED BY P.L.107-1999, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) The ~~state police department~~ **health professions bureau** or the central repository is responsible for the costs of the program, including the following costs:

- (1) Telephone access charges, line charges, and switch charges for transmission of data by dispensers to the central repository.
- (2) Purchase of modems and other hardware required for program participation.
- (3) Software and software modifications to allow dispensers to participate in the program.

(b) A dispenser may not be penalized for failure to comply with the program if the ~~state police department~~ **health professions bureau** or the central repository cannot secure adequate funding to implement the program and cover the costs under subsection (a).

SECTION 8. IC 35-48-7-10, AS AMENDED BY P.L.107-1999, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) The ~~state police department~~, ~~with the advice of the~~ advisory committee shall designate a central repository for the collection of information transmitted under section 8 of this chapter.

(b) The central repository shall do the following:

- (1) Create a data base for information required to be transmitted

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under section 8 of this chapter in the form required under rules adopted by the advisory committee, including search capability for the following:

- (A) A recipient's name.
- (B) A recipient's or recipient representative's identification number.
- (C) A recipient's date of birth.
- (D) The national drug code number of a controlled substance dispensed.
- (E) The dates a controlled substance is dispensed.
- (F) The quantities of a controlled substance dispensed.
- (G) The number of days of supply dispensed.
- (H) A dispenser's United States Drug Enforcement Agency registration number.
- (I) A prescriber's United States Drug Enforcement Agency registration number.
- (J) Whether a prescription was transmitted to the pharmacist orally or in writing.

(2) Provide the ~~state police department and the~~ advisory committee with continuing twenty-four (24) hour a day on-line access to the data base maintained by the central repository.

(3) Secure the information collected by the central repository and the data base maintained by the central repository against access by unauthorized persons.

(4) If the relationship between the ~~state police department~~ **advisory committee** and the central repository is terminated by statute, provide to the ~~state police department and the~~ advisory committee, within a reasonable time, all collected information and the data base maintained by the central repository.

(c) The ~~state police department, with the advice of the~~ advisory committee may execute a contract with a vendor designated by the ~~state police department~~ **advisory committee** as the central repository under this section, or the ~~state police department or~~ advisory committee may act as the central repository under this chapter.

(d) The central repository may gather prescription data from the Medicaid retrospective drug utilization review program (DUR) established by IC 12-15-35.

(e) The ~~state police department and the~~ advisory committee may accept and designate grants, public and private financial assistance, and licensure fees to provide funding for the central repository.

SECTION 9. IC 35-48-7-13, AS AMENDED BY P.L.107-1999, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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- 1 JULY 1, 2003]: Sec. 13. (a) The controlled substances data fund is  
2 established to fund the operation of the central repository. The fund  
3 shall be administered by the ~~state police department~~ **health**  
4 **professions bureau**.  
5 (b) Expenses of administering the fund shall be paid from money in  
6 the fund. The fund consists of grants, public and private financial  
7 assistance, and ~~license~~ **sixteen percent (16%) of the controlled**  
8 **substances registration fees under IC 35-48-3-1**.  
9 (c) The treasurer of state shall invest the money in the fund not  
10 currently needed to meet the obligations of the fund in the same  
11 manner as other public money may be invested.  
12 (d) Money in the fund at the end of a state fiscal year does not revert  
13 to the state general fund.

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